New-York Tribune.

BY HORACE GREELEY. "I desire you to understand the true principles of the Government. I wish them carried out—I ask nothing more."—Harrison. OFFICE NO. 30 ANN-ST.

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THE TRIBUNE.

NEW-YORK, WEDNESDAY MORNING, MAY 19, 1841.

In the Supreme Court, Tuesday, May 18.

CASE OF McLEOD.

There was a brilliant display of eloquence and legal ability in the Supreme Court Room yesterday when the debate on the question of Alexander McLeod's release on a writ of *habeas corpus* came up. The prisoner came into Court at half past 9 o'clock, and at ten precisely Chief Justice Nelson and Judges Bronson and Cowan took their seats. The room was densely crowded with spectators.

Mr. Wood, Junior Counsel for the People, read sundry documents relating to the case: first the enrolment of the steamboat Caroline, dated at the office of James W. Brown, Collector of the port of Buffalo, Dec. 1st, 1837: she was described as a steamboat of 45 tons, 75 feet long, belonging to William Wells of Buffalo. He next presented a License from the same office bearing the same date, authorizing the said Wells to navigate the Niagara River—this the Court said it was not necessary to read.

He then brought forward the original deposition of Gilman Appleby, taken before Judge Bowen on the 12th of December, when McLeod was brought before that Magistrate on a suit of *habeas corpus* after committal. It sets forth that he had command of the boat on the night of the 29th, when she was boarded by some 50 or 60 men who came from the Canada shore in five or six rowboats. There was firing both before and after the men came on board. He was roused by the watch on deck, and in attempting to come up from the cabin he was met by a sword-thrust which slightly wounded him but not severely. He saw the man who made the thrust, and at that time and ever afterwards believed him to have been Alexander McLeod. He had seen McLeod before and was somewhat acquainted with him. He could not swear that it was the same individual then present in Court, who made the thrust; the only circumstance which prevented him from doing so was that the one who assailed him on the boat had a more flushed face than the prisoner. Witness did not see Durfee until after he was dead: he saw him then lying upon the Railroad track, shot through the head with a bullet. He saw no one dead in the warehouse into which he ran.

Mr. Wood then read the deposition of Samuel Anson, taken at the same time with Appleby's. He resides at Lockport, and was at Chippewa at the time of the burning of the Caroline. He knew McLeod, and saw him at a tavern in Chippewa on the morning after the Caroline was destroyed. There were a number of persons in the room, disputing among themselves who had done the most work in the Caroline affair. McLeod said "I killed one d—d Yankee, and there 's his blood"—at the same time showing a horse-pistol, the breech of which was stained with blood. He had on a sword with a red sash; witness do n't know that McLeod said anything further. Witness is a carpenter, and had known the prisoner for some six or eight months; do n't know any of the other persons in the room at the time, nor can he report any of their conversation. They all seemed to agree that McLeod had done the most in the attack.

The affidavit of Norman Barnum, dated Dec. 21, 1837, taken before N. K. Hall, Alderman of the Fifth Ward of Buffalo, was then read. He was at the British encampment at Chippewa on the night of Dec. 29th—saw the Caroline passing to and from Navy Island, which caused considerable excitement among the British troops. An expedition was arrayed under command of Capt. Mosher to capture the Caroline. At night the boats set off—twelve in number; the lights of the Caroline were seen and it was known that she was at Schlosser. Beacons were lighted on shore to guide the boats on their return; when they came ashore McLeod boasted that his sword had drunk the blood of two men. He has no doubt that McNab knew of and approved the expedition.

Willis Hall then read from page 280 of Sir Francis Bond Head's Narrative two extracts from his despatch to Lord Glenelg, to show that if Sir Francis could be believed, the assailants actually set foot upon the territory of New-York.

Mr. Wood then read Gov. Marcy's Special Message to the Legislature, dated Jan. 2d, 1838, with a letter from Mr. Rogers, District Attorney for the County of Erie, to Gov. Marcy, dated Dec. 3, 1837, setting forth the facts and circumstances attending the destruction of the Caroline. It enclosed an affidavit of Capt. Appleby, stating that he left Buffalo in the Caroline, on the morning of December 29, for Schlosser, having cleared to run between Buffalo and that place. While at Black Rock ran up the American flag: a volley of musketry was fired at the boat from the Canadian shore, but did no damage. Landed passengers and some articles of freight at Navy Island; thence went to Schlosser; made two more trips in the afternoon, landing passengers and freight as before. At 6 P. M. moored at the wharf at Schlosser.

His crew consisted in all of ten persons; twenty-three others came on board and asked leave to stay for the night, as they could get no lodgings at the tavern. All turned in about 10 o'clock. About midnight was roused by the watch on deck, who told him that boats were approaching. Before he could reach the deck the boat was boarded by some 60 or 70 armed men, with cries of "G—d d—n the Yankees! kill them all—give them no quarter."

No resistance was made—all fled for their lives. After the boat was cut loose he made diligent search, but could find only twenty-one of those who were on board. Believes that twelve men were killed on board or drowned in going over the falls. Saw the beacon-lights and heard the cheers on the Canada side.

Depositions of James H. King, C. F. Harding, and five or six others were read, confirming that of Capt. Appleby.

Mr. Hull then read the remainder of Mr. Forsyth's note to Mr. Fox, of December, 26, 1840, of which part was read by McLeod's counsel yesterday. In the part now read Mr Forsyth asserts the independent jurisdiction of the several States and the right of New-York to take judicial cognizance of this matter—denies the power of the Federal government to interfere, and its duty to do so even if it had the right; asserts the existence of two distinct methods of redress, one by the National Government for the National wrong, the other by the State of New-York for the wrong done to that State, &c., and argues in support of the course taken by the tribunals of New-York, &c.

Mr. Hall said that the testimony in behalf of the people was then closed, as it was deemed sufficient to present a *prima facie* case in testimony.

Mr. Bradley, one of the Prisoner's Counsel, then rose to address the Court. In consequence of ill health, he said he felt unable to go fully into the merits of this case, and to discharge the high duty of arguing great questions, compared with which the bare question of peace or war was of secondary importance! This, he said, was the first attempt ever made in any court, to hold an individual responsible to the municipal tribunals of one government for acts done in obedience to another—and that other his own. If this principle were sustained and infused into the code of nations, a revolution would ensue, the consequences of which no eye could foresee, and no judgement rightly estimate.

He then recapitulated the facts developed in the testimony presented on Monday, stating them as follows: That Canada is a distant extremity of a trans-Atlantic monarchy, with local powers fully adequate to her situation; along her Southern border is a country with different institutions, whose people were ardently attached to their republican principles, and desirous of seeing them widely diffused. Meetings were held, attended by men of respectability, addresses delivered, recruits beaten up, arms and provisions solicited and contributed, and Navy Island occupied, mostly by citizens of this republic! The object of all these transactions was to arouse a population of more than half a million against a nation whose fortresses belt the globe. Schlosser was a point of communication between this Navy Island and our shore; the men on the former place looked to our coast for supplies, and they had good cause thus to look; for our arsenals had been broken open, our arms plundered; and the same spirit prevailed all along the border, from Buffalo to Vermont. The motive for all this was known and proclaimed.

At the time of the Caroline's destruction, Canada was at peace; but these preparations amply warranted the belief, that she would not long remain so. The apprehensions of her people were aroused, and well might they be—for what chains were ever lightened by an unsuccessful effort to cast them off?—It was necessary to their safety that this communication between Navy Island and Schlosser should be closed. Beyond the imaginary line separating Canada from the U. S., her cannon would protect the Caroline; within that line she relied upon the neutrality of the United States for safety. Thus was neutrality made the strongest argument by one nation for invading the territory of another.

To close this communication, a force was organized by the Canadian authorities, and despatched to capture the Caroline: of those on board this boat, some fell, some fled; the boat herself was turned into the current, and sent over the cataract; the adventurers turned back, and beacon lights blazed along the shore, to guide them to their friends.

Mr. Bradley said that he would here pause to tell the counsel on the other side, that whatever eloquence they might have to spare upon this as an unauthorized aggression of our territory, would be well bestowed. Such is the view taken of the transaction by our Minister at the Court of St. James; such were the views of Gov. Marcy and of all our authorities; and he trusted the counsel on the other side would ever be animated by the same zeal in behalf of their country's rights. In making good that position, said Mr. Wood, they establish our own. It must be borne in mind that neutrality can only be preserved and can only be violated *by nations*: individuals, as agents of their government only, can do both, and then the nations become responsible. It then becomes an act of public force—of one sovereign state done upon another. The doctrine to which this case resolves itself is, that allegiance is a duty which all men owe, and upon which all civilized nations insist, and which they universally recognize. When a man under duress of that allegiance violates that neutrality, the government whose agent he was only becomes responsible.

The prisoner is charged with murder in the first and second degrees, and with having been an accessary after the fact. In order to fasten this upon him, it must be proved that his conduct was purely voluntary; that assent must have been uncaused by any restraint either physical, which allows no power, or political, which allows no right, to act otherwise.

This leads to the question how far nations will recognize the duty of obedience which subjects of other nations owe to their own country. Some preliminary considerations were to be regarded previous to the discussion of this matter.

Publicists all refer to a state of nature for a model of the rights and duties of nations: in that state all men are equal—alike independent; each gives no law, because he has no inferior, and receives none, for there are none above him. In matters of right he consults only his own conscience; in matters of judgement, his own understanding; in matters of power, his own right arm. *A man is but a miniature nation.* Each state comes in the course of its growth to have a conscience, an understanding, and a right arm. Each individual in it agrees to obey, and all agree that thus obeying, each shall have protection: and this is allegiance and the reward for it. To assist in carrying out these designs and laws, armies and all the machinery of government are devised. Each nation is thus but a moral person, and codes have been framed by which their rights have been defined and enforced, and wrongs redressed.

Sovereignty—including the power and right to determine what is to be done—every state must have. No matter where it is placed, or how exercised. There is a supreme power in every state, to which all others must be obedient—governing absolutely and without appeal. Corresponding with this right of sovereignty, and coextensive with it, is the duty of obedience: wherever the command comes, it must be obeyed. If the law be unwise or unjust, they may reason, remonstrate or take up arms against it, and overturn the power that gives it force; but while they continue subjects they have nothing to do but to obey it. So far-reaching is this doctrine that it has warmed into a sentiment, arousing the best feelings in its behalf, glowing in every heart, and brightest in the purest.

It follows that whenever a nation recognizes another as having an independent existence, she recognizes *ipso facto* the right of that nation to command and the duty to obey. Every nation which recognizes another's independence is estopped—legally estopped, from denying this right and duty; and every interruption of this is a just ground of war—not merely in self-defence, but because it is a breach of faith—denying in practice what it has recognized in theory. A nation which will not recognize this right to command, and its correlative duty to obey, in the opinion of Publicists, should be extirpated.

Since, then, sovereignty and obedience one constitute a government, and since the lawful existence of both is recognized by the recognition of independence, it inevitably follows that whatever any subject or citizen may do, in obedience to his own government, under duress of its laws, he can never be punished for by another: for what can be worse than to punish a man for doing what you acknowledge to have been his duty. Be the act war, or invasion, general or local hostility, destruction of the Northern Fleet at Copenhagen or of the Caroline at Schlosser, whenever the command is given by a competent authority, it must be implicitly obeyed: the right of sovereignty demands it: the duty of obedience compels it: and the recognition of independence pardons it.

The actor was an involuntary one—in duress—bound by claims which nothing but revolution can sever: other States have no right to give him any inducement to do otherwise. He may go on in obedience to an unjust law if he choose—it is his own matter, and no other state can blame, much less punish him for doing thus. If a state be injured she may redress it, but no individual: as well hold the tumbling granite responsible for the ruins of its fall as any man for his act—when compelled by as strong a necessity as the laws of nature impose.

Have not the United States and Great Britain recognized each other's independence by war, by treaties, by every negociation which can be transacted between Nations?

Mr. Bradley here alluded to the justice of State Rights, which has been harped upon in connection with this matter: showing that the case would in no wise have been altered if New York had been a separate Empire. An act is done by Great Britain—an invasion of our soil by her commands—what code includes this transaction? the code by which nations' rights are defined and redressed. The municipal tribunals of New York have nothing to do with it: they are devised to deal with her own citizens, individuals who commit crimes on their own account, not on that of Nations.—Juries are the inquests of their own Courts, not of Nations. Tribunals for the redress of national wrongs begin at different places, act on different principles, and arrive at different results; they never refer to juries. If, then, New York were an independent State, her municipal tribunals could have nothing to do with this case. But she is not: she has no external relations, can make no treaties, cannot even surrender a fugitive demanded by Canadian authorities;—how then can she take cognizance of a national wrong?

Why then should the prisoner be longer held in custody? Because in the first place we are told, an indictment has been found, on which the prisoner must be tried. But can this confer jurisdiction? Consent, a plea of guilty, the statutes of N. Y.—those of the U. S. cannot do it: and shall an indictment then effect it? What is an indictment? Simply a declaration in a criminal suit; and who ever heard that in a civil suit a defendant could not be discharged after a declaration?

Again, Durfee was not killed upon the boat, but on the shore: it is then said that his death was not necessary to the capture of the boat, that therefore the assailants exceeded their order. It must be remembered that the nature of that invasion was one of hostility—it was during a temporary war; and if so it is perfectly immaterial what outrages we committed. We have no right to inquire whether too much or too little blood was shed. The invasion was in defiance of our law—such defiance as a nation makes. The invaders owe no obedience to the invaded nation: their banner shows what nation they serve. Never before has it been contended that the members of an expedition are to be held responsible for what was done. All the facts of the case show that this is a national affair, and that our municipal courts have nothing to do with it.

The whole of this case is founded upon the error that subjects of one government within the territory of another, there doing business in obedience to their own, are responsible to the municipal laws of the other. On this the whole claim to detain McLeod for one moment, is based. This claim is palpably disproved by the exemption of our Minister at the court of St. James, and the meanest of his servants from all responsibility to the English laws: he is amenable to law, but not to that of Her Majesty.

It has been said, also, that the dignity of the State is concerned in bringing McLeod to trial. What dignity can the State have or derive from her municipal Courts holding in duress a man over whose conduct they have no jurisdiction—in usurping cognizance of questions of international law? Many, too, suppose that an arrogant demand for his release has been made. Boons, let me remind you, are craved: favors are asked, but rights are and always should be demanded. Twenty years ago a transaction took place in Florida, then under Spanish jurisdiction, not unlike the one before us in some of its principles: the Territory was invaded by an American leader, who, it was acknowledged, had exceeded his powers: he went farther even than was charged upon him by the eloquent orator of Kentucky, whose bolts, like those of Jove, fall oft and hallow what they strike. The Court under whose cognizance this case was brought told the soldiers that their chief would direct them and that him they must obey. Suppose now one of these men had afterwards been taken in Spain and tried for the murder of one of their men: would his release have been claimed as a boon, asked as a favor, or demanded as a right by our Government? Would our Minister have gone to the Spanish authorities trailing behind him the banner bearing the stars and stripes of his native land? It would have been claimed as a soldier's right; this would have laid hold of the National protection—it would have clutched every sinew of the National power, and the same eloquence which flashed around his chief to destroy would have gleamed around that lone and distant man to illumine and protect: and if the country had not rescued that man from his dungeon, or planted its banner on his grave, she would have deserved to be blotted from the roll of nations.

This is a national affair: let the Nation then settle it—amicably if they can, but if not let them carry it to the grand assize of Nations, calling upon God to sustain the right; but never let it be said that a civil, humane and Christian Nation had wreaked its vengeance upon a helpless individual forced to yield to the commands for obedience to which he suffered.

In conclusion the whole prosecution resolves itself into these principles:

1. It seeks to make the Municipal Courts of New York exercise jurisdiction over the rights of Nations.

2. It seeks to deprive the National Government of power conferred upon it by the Constitution, and drag it down to the level of the Municipal Courts.

3. It seeks to thrust the Municipal Courts of this State between the duty of subjects of foreign Nations and their own Government.

4. It violates the independence of Nations, which allows each to be governed by laws of its own framing. This it is which gives to the subject a solemnity greater than attaches to any mere question of war or peace; these are but temporary in their character: not so, however, with the everlasting blight of an evil principle sanctioned by the high Courts of the land.

After Mr. Bradley had concluded his argument, Mr. Wood, District Attorney for Niagara Co., and one of the Counsel for the People in this case, arose, and after some remarks of a general character, proceeded to explain the circumstances out of which the present trial grew. Citizens of our government, he said, had participated in the invasion of Canada, and had paid the penalty: they had been seized, tried and executed—and our government had interposed no claim for their surrender. The same justice, he maintained, should be meted out to those Canadian subjects who had, in a like unwarrantable manner, invaded our soil, and that the British government have no ground for demanding their surrender.

He contended, moreover, that before the prisoner could justify himself, he must prove that the person under whose authority he acted, had a right to issue such orders, and that he was bound to obey them. There is no principle, said Mr. Wood, by which this act could be justified, except in case of war: and it is conceded on all hands, that at the time of its perpetration, there was no war between the two governments.

He denied also the ground that if a British subject invade our soil, the avowal of the act by his government does not release him from responsibility and punishment. The court, moreover, he maintained, had no authority to inquire into the case in its present shape. The prisoner had been indicted for murder, and had pleaded not guilty, that is, had demanded that the case be tried by a jury:—he had thus formed an issue which could be tried only by a jury.

The only proper inquiry for this Court was whether he had been legally committed, and several portions of the Revised Statutes were read to show that they had authority to inquire into no other point than this, viz: whether the papers were regular upon their face. In this case it is conceded that all the papers are exactly and properly made out, there has been no error in the process, and the whole investigation must therefore be at an end. The several grounds maintained by the prisoner's Counsel, that of his having acted under orders, &c., are proper to come before a jury on his trial: the Court could neither consider this point nor inquire whether the orders had been exceeded: they cannot go behind the indictment to enquire into any matter whatever: if they may there is no case in which an accused individual may not come up to this court and ask his release.

After Mr. Wood had concluded his argument, which, for want of space, we have been compelled to omit, Hon. Willis Hall, Attorney General for the State and Counsel for the People in this case, commenced his plea by saying that the matter before the Court was strictly a matter of law: the Court was a Court of Law, and he intended to argue the case strictly as a question of law. The demurrer he considered withdrawn, and the case rested on allegations to be proved.

The prisoner stands here indicted for *murder*: he has pleaded *not guilty*. Notwithstanding this, a motion has been made that, without trial of this issue, without any disposition of the indictment, the prisoner be discharged. There is no pretence of informality, or that he is not legally detained in custody. Now by the common law as well as by statute, both in this country and in England, an indictment must be dismissed either by a motion to quash, for *prima facie* informality, by a trial by the record, when issues of law are presented to the Court by questions of fact presented to the jury or by a *nolle prosequi*. He asked the counsel to show a precedent for any other way to dispose of an indictment.—The motion before the Court is a novelty, a motion without precedent—an experiment upon the Court, the first of the kind that had ever been made; and he trusted the decision would be such that it would not speedily be repeated.

By the English Law a writ of *habeas corpus* would not be granted to one indicted for murder by the Court of Queen's Bench. He referred to the great Statute of which England and we her descendants, alike are proud, the 31st Charles II. Chapt. II. He also referred to statutes specially excepting from the benefit of *habeas corpus* cases of a criminal character. (56, Geo. III. Chap. 100.) If, therefore, the prisoner were being tried by the legal tribunals of his own country, he would not be allowed the privilege of appearing in Court and being heard on this question.

The indictment of a Grand Jury is in its nature and in the reason of the thing, of the same character as the decision of a Court. This Court cannot alter the verdict or the finding of a Grand Jury. If, then the prisoner be discharged, the Court will assume a jurisdiction over the indictment which no tribunal has ever yet claimed.

Again: the provision is that the party may make allegations or proofs: the State also, or the plaintiff may make counter allegations and counter proofs. In this case, after the indictment has been found, this Court cannot investigate the matter—for a part of the testimony on which the decision is to be based, is shut out by the law. Authorities were cited to illustrate this. If it be true, then, that this Court cannot look behind the indictment, if they are shut out from part of the testimony offered to the Grand Jury, and if the case cannot be heard after the indictment, it must end here so far as the Court is concerned.

What now do the facts which have been laid before the Court in evidence present. There is a fierce excitement all along our northern border: on both sides the inhabitants are greatly enraged with each other; a bitter rebellion has broken forth; many of the unsuccessful rebels have fled to this country, and have excited the sympathies of our people in their behalf. They have again gone back to Navy Island—a locality out of our jurisdiction—and some of our citizens have followed them. There were high apprehensions of violence on the Canadian side, nor without reason: at the same time our Government was doing all it could to put a stop to all violations of the neutrality between this country and England. The letter of Mr. Rogers, too, shows that the crisis had passed, the matter was over, and the patriots and almost entirely dispersed.

Under these circumstances this invasion of our Territory was committed and some of our citizens murdered. After this transaction, which had rested now for three years without any explanation from the British Government, this man, McLeod, who is charged with having committed the murder, is found within our jurisdiction; he is arrested and brought before our magistrates, and proved by strong evidence to have been guilty of the murder. He is committed for trial. At the same time, too, every effort was made to procure his release; he was urged to prove an *alibi*, and every facility afforded to aid him in procuring a discharge; there was every disposition to enable him to take all possible advantage of the circumstances attending his arrest and his agency in the capture of the Caroline. This is all of the case that they can make out.

What kind of facts, now, can the Court take into consideration? Plainly none except such as go to show the legality or illegality of the commitment or detention, not to the guilt or innocence of the party. The statute positively restricts the inquiry to the legality of the commitment; but an innocent man may be legally committed, and even convicted. The distinction is broad and essential; if it be not made, where is the Court to stop? Why may not every murderer be brought into the Court and allowed to plead for a discharge? This class of facts, then, covering aught but the question of legality, is excluded.

To illustrate the case: If an Embassador of any foreign government were to be arrested and committed on any charge, and he were to appear in this Court by writ of *habeas corpus*, alleging his irresponsibility to our laws, the Court could only consider the facts which go to show this irresponsibility.

Again: if a man should kill another in self-defence, and should be arrested for it; nay, if a Sheriff should be arrested for executing the sentence of the law upon a condemned criminal, could either of them come into this Court and spread out all these circumstances, pleading the causes why they should not be condemned, and thereupon asking discharge? Most clearly not. This is all a question for the Grand Jury. It is plain, therefore, that this Court can listen to no matter which goes barely to show the guilt or innocence of the party.

Let us consider now what is to be the effect of the recent avowal by Great Britain that she approves and sanctions the act for which McLeod has been indicted. This order can have effect only in one of two cases.

1. When used as a *justification* of the prisoner, to establish his innocence of the crime charged, or

2. When, the guilt of McLeod being admitted, the order is used as a *protection* to exonerate him and take him away from subjection to our Courts and amenability to our laws.

In the first case, if the order is to be used as a justification of the prisoner it is exclusively for the consideration of the Jury; it is not in avoidance but in denial of the indictment. The indictment charges that the prisoner did maliciously, instigated by the devil and out of his malice kill the said Durfee, but this order denies and says that he did it, not at the instigation of the devil, but in the discharge of his duty. It is then clearly a matter for the consideration of the jury on the prisoner's trial, and the avowal can properly come up only before them. The grounds as laid down in the order of the British Minister are these; the transaction was one of a public character; the scheme of capturing the Caroline is assumed to have been planned and executed by the prisoner, who was authorized to take any steps and do any acts necessary to the welfare and peace of her Majesty's subjects in Canada; and therefore, any subject who did this was performing an act of public duty. This then puts it on the ground that he was doing no criminal act; this is clearly a matter for the Jury to decide upon; indeed it necessarily involves going to the Jury, for the question of duty has no connection with that of the legality or illegality of his detention. The question too would arise whether the prisoner had exceeded his orders, and this is also most clearly a matter of which a Jury only can take cognizance.

No order of an Executive can justify any act for which an individual has been indicted and then take his case out of the Courts. Suppose that the Governor of this State should call out the militia of the State, and that one of the soldiers should kill a citizen, for which he should be indicted and brought up for trial. What effect would an order from the Governor, certifying the facts and ordering his release, produce in this Court but astonishment? And shall we listen to an order from a Foreign Potentate when one from our own Chief Magistrate would be powerless?

We have thus considered the order of the British Minister for his release in the only light in which I am confident the prisoner can be discharged by virtue of it, and have seen that it is then only a matter for the consideration of a jury. Let us now suppose the prisoner guilty, and regard this order as intended to protect him from the authority of our laws: this is a pertinent subject for discussion in this Court: there are three inquiries we are to consider, viewing it in this light:

1st. Is the order sufficiently authenticated by Mr. Fox's letter to Mr. Webster? (The authenticity of the letter itself will not be contested, though the original would have been more satisfactory than a copy.)

2d. Is the order set forth with sufficient particularity in the letter to show that it covers the act for which the party is indicted?

3d. Can the order of a foreign government protect a murderer from trial in this State?

As to the second inquiry: the letter alluded to says that the "transaction for which McLeod has been arrested and is to be put on his trial, was a transaction of a public character, planned and executed by persons duly empowered by her Majesty's colonial authorities to take any steps and to do any necessary for the defence of her Majesty's territories and for the protection of her Majesty's subjects." But McLeod is indicted for the murder of Durfee: is this the transaction planned and executed by the Canadian authorities? It can-